

Serial No. 09/925,008
Amendment dated December 23, 2004
Reply to Office Action of July 23, 2004

Docket No. K-0310

REMARKS/ARGUMENTS

Claims 1-7 and 9-29 are pending in this application. By this Amendment, claims 1, 9, 10, 11 and 21 are amended (to place the application in condition for allowance) and claim 8 is cancelled without prejudice or disclaimer. Based on comments in the December 7 Advisory Action, the October 21 amendments are considered to be entered.

Entry of the amendment is proper under 37 C.F.R. §1.116 since the amendment incorporates features of dependent claim 8 into the independent claims. As stated in the Advisory Action dated December 7, 2004, the features of claim 8 has overcome the outstanding rejection (of claim 8). Further, the Advisory Action indicates that claim 8 would be objected to if the application were appealed. Thus, claim 8 is deemed to contain allowable subject matter. Since allowable subject matter is incorporated into independent claim 1, and the other independent claims are similarly amended, no further consideration is necessary by the Examiner. Entry is therefore proper under 37 C.F.R. §1.116.

The Office Action rejects claim 1-29 under 35 U.S.C. §103(a) over U.S. Patent 6,574,211 to Padovani et al. (hereafter Padovani) in view of U.S. Patent 6,542,736 to Parkvall et al. (hereafter Parkvall). The rejection is respectfully traversed.

For at least the reasons set forth above, each of independent claims 1, 11 and 21 define patentable subject matter. That is, Padovani and Parkvall do not teach or suggest all the features of each of independent claims 1, 11 and 21. Claims 2-7 and 9-10 depend from claim 1, claims 12-20 depend from claim 11 and claims 22-29 depend from claim 21 and therefore define

patentable subject matter at least for this reason. In addition, the dependent claims also recite features that further and independently distinguish over the applied references.

For example, many of the dependent claims relate to the receiving probability. The Office Action, while asserting that Padovani teaches a receiving probability of a signal, then relies upon Parkvall to recite features regarding the receiving probability. Thus, it is unclear regarding the Office Action's assertion of which reference allegedly discloses the receiving probability provided to a mobile station. It is clearly improper for the Office Action to rely on Padovani as disclosing providing load information that is a receiving probability of a signal and then to rely on Parkvall with regard to more specific features of the receiving probability since Parkvall does not teach or suggest the features regarding providing load information that is a receiving probability of a signal. Parkvall does not teach or suggest the respectively claimed features regarding the receiving probability as set forth in the dependent claims. See, for example, dependent claims 2-6, 12-18, 22-24, 26 and 28-29.

Additionally, dependent claim 5 (and similarly dependent claim 15) recites that the load information is transmitted to the corresponding mobile station using a synchronized control channel, asynchronous control channel or dedicated channel. The Office Action appears to assert that Padovani disclose providing the load information, but then relies upon Parkvall to show the features of dependent claims 5 and 15. Thus, the rejection based on Padovani and Parkvall is not possible as set forth in the Office Action.

Furthermore, dependent claim 6 recites multiplying the load information provided for each base transceiver system by the forward data transmission rate determined for each base transceiver system, comparing values calculated for the respective base transceiver system with one another, and selecting the base transceiver system having the largest value according to a result of comparison. For similar reasons as set forth above, Padovani and Parkvall do not teach or suggest these features as they do not relate to use of the claimed multiplying the load information provided for each base transceiver system by the forwarding data transmission rate determined for each base transceiver system. Thus, dependent claim 6 (and similarly dependent claim 26) defines patentable subject matter at least for this reason.

Furthermore, dependent claim 10 recites the base transceiver system checking the mobile station that completes the DRC channel transmission until $((\text{present slot time}) - 1 - (\text{present slot time mod (DRC channel length)}))$. The Office Action relies on Parkvall's Figure 4, 6-12 and column 7, lines 27-43 for these reasons. However, these features of Parkvall do not relate to those recited in dependent claim 10. Thus, dependent claim 10 defines patentable subject matter at least for this reason.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance of claims 1-7 and 9-29 are earnestly solicited. If the Examiner believes that any additional changes would place the

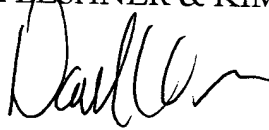
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application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, **David C. Oren**, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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